

AMENDED IN SENATE APRIL 27, 2010

AMENDED IN SENATE MARCH 22, 2010

**SENATE BILL**

**No. 1051**

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**Introduced by Senator Huff**

(Coauthors: Assembly Members Adams, Fuller, and Logue)

February 16, 2010

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An act to add *and repeal* Section 49414.7~~to~~ of the Education Code, relating to pupil health.

LEGISLATIVE COUNSEL'S DIGEST

SB 1051, as amended, Huff. Emergency medical assistance: administration of diastat.

*Existing law provides that in the absence of a credentialed school nurse or other licensed nurse onsite at the school, a school district is authorized to provide school personnel with voluntary medical training to provide emergency medical assistance to pupils with diabetes suffering from severe hypoglycemia.*

*This bill would authorize a school district to provide school employees with voluntary emergency medical training to provide, in the absence of a credentialed school nurse or other licensed nurse onsite at the school, emergency medical assistance to pupils with epilepsy suffering from seizures, in accordance with performance standards developed by specified entities. The bill would require the State Department of Public Health to approve the performance standards for distribution and make the standards available upon request. The bill would allow a parent or guardian of a pupil with epilepsy who has been prescribed diastat by the pupil's health care provider to request the pupil's school to have one or more of its employees receive voluntary training, as specified, in order to administer diastat, as defined, in the event that*

*the pupil suffers a seizure when a nurse is not available. The bill would require a school that decides to train school employees to distribute an electronic notice, as specified, to all staff regarding the request. The bill would provide that volunteer school employees who are trained and who administer diastat in good faith be immune from civil and criminal liability for injuries resulting from acts or omissions in administering the diastat. The bill would repeal these provisions on January 1, 2016.*

~~Existing law provides that in the absence of a credentialed school nurse or other licensed nurse onsite at the school, a school district is authorized to provide school personnel with voluntary medical training to provide emergency medical assistance to pupils with diabetes suffering from severe hypoglycemia.~~

~~This bill would authorize a school district, in the absence of a credentialed school nurse or other licensed nurse onsite at the school, to provide school employees with voluntary emergency medical training to provide emergency medical assistance to pupils with epilepsy suffering from seizures in accordance with performance standards developed by specified entities. The bill would require the State Department of Public Health to approve the performance standards for distribution and make the standards available upon request. School employees who are trained and who administer diastat in good faith would be immune from liability for injuries resulting from acts or omission in administering the diastat.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. (a) The Legislature finds and declares that all
- 2 individuals with exceptional needs have a right to participate in a
- 3 free appropriate public education, and that special instruction and
- 4 services for these individuals are needed in order to ensure they
- 5 have the right to an appropriate educational opportunity to meet
- 6 their unique needs in compliance with the federal Individuals with
- 7 Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).
- 8 (b) It is the intent of the Legislature that individuals with
- 9 exceptional needs and children with disabilities under the federal
- 10 Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101
- 11 et seq.) and Section 504 of the federal Rehabilitation Act of 1973

(29 U.S.C. Sec. 794) shall have a right to an appropriate educational opportunity to meet their unique needs, and that children suffering from seizures due to epilepsy have the right to appropriate programs and services that are designed to meet their unique needs. In order to meet that goal, it is the intent of the Legislature to authorize nurses to train and supervise employees of school districts and county offices of education to administer diastat to children with epilepsy in the public schools. The American Academy of Pediatrics and the Epilepsy Foundation of America support training of school employees to administer diastat and believe that diastat may be safely and effectively administered by trained school employees. The Legislature further finds and declares that, *in the absence of a credentialed school nurse or other licensed nurse onsite at the school*, it is in the best interest of the health and safety of children to allow trained school employees to administer diastat to pupils in public schools.

SEC. 2. Section 49414.7 is added to the Education Code, to read:

49414.7. (a) ~~Notwithstanding~~ *It is the intent of the Legislature that, whenever possible, diastat should be administered by a school nurse who has been trained in its administration.*

(b) *Notwithstanding* Sections 2052 and 2732 of the Business and Professions Code, in the absence of a credentialed school nurse or other licensed nurse onsite at the school, a school district may provide school employees with voluntary emergency medical training to provide emergency medical assistance to pupils with epilepsy suffering from seizures. A school employee with voluntary emergency medical training shall provide this emergency medical assistance in accordance with the standards established pursuant to subdivision-(b) (h), and the performance instructions set forth by the licensed health care provider of the pupil. A school employee who does not volunteer or who has not been trained pursuant to subdivision-(b) (h) shall not be required to provide emergency medical assistance pursuant to this section.

(b) *If a pupil with epilepsy has been prescribed diastat by his or her health care provider, the pupil's parent or guardian may request the pupil's school to have one or more of its employees receive training pursuant to this section in the administration of diastat in the event that the pupil suffers a seizure when a nurse is not available.*

1 (c) Upon receipt of the parent's or guardian's request, the  
2 school shall notify the parent or guardian that his or her child  
3 may qualify for services or accommodations guaranteed under  
4 Section 504 of the federal Rehabilitation Act of 1973, as amended,  
5 (29 U.S.C. Sec. 794), assist the parent or guardian with the  
6 exploration of that option, and encourage the parent or guardian  
7 to adopt that option if it is determined that the child is eligible for  
8 a Section 504 plan.

9 (d) The school may ask the parent or guardian to sign a notice  
10 verifying that the parent or guardian was given information about  
11 Section 504 of the federal Rehabilitation Act of 1973, and that the  
12 parent or guardian understands that it is his or her right to request  
13 a Section 504 plan at any time.

14 (e) If the parent or guardian does not choose to have the pupil  
15 assessed for a Section 504 plan, the school may create an  
16 individualized health plan, seizure action plan, or other  
17 appropriate health plan designed to acknowledge and prepare for  
18 the child's health care needs in school. The plan may include the  
19 involvement of trained volunteer school employees.

20 (f) If a school decides to train school employees pursuant to  
21 this section, the school shall distribute an electronic notice to all  
22 staff that states all of the following:

23 (1) The notice is a request for volunteers to administer diastat  
24 to a pupil experiencing a severe epileptic seizure, in the absence  
25 of a school nurse.

26 (2) Diastat is an FDA-approved, predosed, rectally administered  
27 gel that reduces the severity of epileptic seizures.

28 (3) A volunteer will receive training from a licensed health  
29 professional regarding the administration of diastat.

30 (4) Any agreement by an employee to administer diastat is  
31 voluntary, and no employee of the school or district shall directly  
32 or indirectly use or attempt to use his or her authority or influence  
33 for the purpose of intimidating, threatening, coercing, or  
34 attempting to intimidate, threaten, or coerce, any staff member  
35 who does not choose to volunteer.

36 (5) A volunteer is protected from civil and criminal liability  
37 pursuant to Subdivision (k) of Section 49414.7 of the Education  
38 Code.

39 (g) If there are no volunteers, then the school shall renotify the  
40 pupil's parent or guardian of the option to be assessed for services

1 *and accommodations guaranteed under Section 504 of the federal*  
2 *Rehabilitation Act of 1973.*

3 *(h) A school that chooses to participate pursuant to this section*  
4 *shall have in place a school plan that shall include, but not be*  
5 *limited to, all of the following:*

6 *(1) Identification of existing licensed staff within the district or*  
7 *region who could be trained in the administration of diastat and*  
8 *could be available to respond to an emergency need to administer*  
9 *diastat. The school shall consult with the school district or county*  
10 *office of education to obtain this information.*

11 *(2) Identification of pupils who may require the administration*  
12 *of diastat.*

13 *(3) Written authorization from the parent or guardian for a*  
14 *nonmedical school employee to administer diastat.*

15 *(4) The requirement that the parent or guardian notify the school*  
16 *if the pupil has had diastat administered within the past four hours*  
17 *on a schoolday.*

18 *(5) Notification of the parent or guardian that diastat has been*  
19 *administered.*

20 *(6) A written statement from the pupil's health care practitioner*  
21 *that shall include, but not be limited to, all the following:*

22 *(A) The pupil's name.*

23 *(B) The name and purpose of the medication.*

24 *(C) The prescribed dosage.*

25 *(D) The length of time the seizure may continue before the*  
26 *administration of diastat becomes necessary.*

27 *(E) The method of administration.*

28 *(F) The frequency with which the medication may be*  
29 *administered.*

30 *(G) The circumstances under which the medication may be*  
31 *administered.*

32 *(H) Any potential adverse responses by the pupil and*  
33 *recommended mitigation actions, including when to call emergency*  
34 *services.*

35 *(I) A protocol for observing the pupil after a seizure, including,*  
36 *but not limited to, whether the pupil should rest in the school office,*  
37 *whether the pupil may return to class, and the length of time the*  
38 *pupil should be under direct observation.*

39 *(i) A school that chooses to allow volunteers to administer*  
40 *diastat shall compensate a volunteer when the administration of*

1 *diastat and subsequent monitoring of a pupil requires a volunteer*  
2 *to work beyond his or her normally scheduled hours.*

3 ~~(b)~~

4 (j) (1) The Legislature encourages the Epilepsy Foundation of  
5 America to develop performance standards for the training and  
6 supervision of school employees in providing emergency medical  
7 assistance to pupils with epilepsy suffering from seizures. The  
8 performance standards may be developed in cooperation with the  
9 State Department of Education, the California School Nurses  
10 Organization, the California Medical Association, and the  
11 American Academy of Pediatrics. Upon development of the  
12 performance standards, the State Department of Public Health  
13 shall approve the performance standards for distribution and make  
14 those standards available upon request.

15 (2) Training established pursuant to this subdivision shall  
16 include, *but not be limited to*, all of the following:

17 (A) Recognition and treatment of ~~epilepsy~~ *different types of*  
18 *seizures.*

19 (B) Administration of diastat.

20 (C) Basic emergency followup procedures including, but not  
21 limited to, calling the emergency 911 telephone number ~~and, if~~  
22 ~~possible, contacting the pupil's parent or guardian and his or her~~  
23 ~~licensed health care provider.~~

24 ~~(3) Training by a physician and surgeon, credentialed school~~  
25 ~~nurse, registered nurse, or certificated public health nurse in~~  
26 ~~accordance with the performance standards established pursuant~~  
27 ~~to this section shall be deemed adequate training for the purpose~~  
28 ~~of this section. and contacting the pupil's parent or guardian.~~

29 (D) *Techniques and procedures to ensure pupil privacy.*

30 (3) *Training by one or more of the following:*

31 (A) *A physician and surgeon.*

32 (B) *A credentialed school nurse.*

33 (C) *A registered nurse.*

34 (D) *A certificated public health nurse.*

35 (4) *Training provided in accordance with the performance*  
36 *standards established pursuant to this section shall be deemed*  
37 *adequate training for purposes of this section.*

38 ~~(4)~~

1 (5) (A) A school employee shall notify the credentialed school  
2 nurse assigned to the school district if he or she administers diastat  
3 pursuant to this section.

4 (B) If a credentialed school nurse is not assigned to the school  
5 district, the school employee shall notify the superintendent of the  
6 school district, or his or her designee, if he or she administers  
7 diastat pursuant to this section.

8 ~~(5) All materials necessary to administer the diastat shall be~~  
9 ~~provided by the pupil's parent or guardian.~~

10 (C) *A school shall retain all records relating to the*  
11 *administration of diastat while a pupil is under the supervision of*  
12 *school staff.*

13 (6) *The pupil's parent or guardian shall provide all materials*  
14 *necessary to administer diastat, including the information*  
15 *described in paragraph (6) of subdivision (h). A school shall not*  
16 *be responsible for providing any of the necessary materials.*

17 ~~(e)~~  
18 (k) A school employee who is trained to administer, and who,  
19 acting in good faith, administers diastat shall be immune from  
20 criminal or civil liability for *perceived or real physical or*  
21 *emotional* injuries resulting from his or her acts or omissions in  
22 administering the diastat, *including, but not limited to, sex offenses.*

23 ~~(d)~~  
24 (l) For purposes of this section, “diastat” means diazepam rectal  
25 gel, marketed as Diastat AcuDial, approved by the federal Food  
26 and Drug Administration for patients with epilepsy for the  
27 management of seizures.

28 (m) *This section shall remain in effect only until January 1,*  
29 *2016, and as of that date is repealed, unless a later enacted statute,*  
30 *that is enacted before January 1, 2016, deletes or extends that*  
31 *date.*